

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

IN RE: JUUL LABS, INC.  
ANTITRUST LITIGATION

Case No. 3:20-CV-02345-WHO

### This Document Relates to:

## ALL DIRECT PURCHASER ACTIONS

**DECLARATION OF EADON JACOBS**  
**IN SUPPORT OF REPLY IN SUPPORT OF MOTION**  
**TO COMPEL ARBITRATION OR STRIKE CLASS ALLEGATIONS**

I, Eadon Jacobs, declare as follows:

1. I am Senior Director of Product, Identity Verification & Ecommerce at Juul Labs, Inc. (“JLI”). I have held that position since July 2020, and I have worked at JLI since November 2017. I have personal knowledge of the matters stated below based on my review of the records of JLI.

2. I previously submitted a declaration in this matter on January 15, 2021, in support of JLI’s Motion to Compel Arbitration or Strike Class Allegations (my “First Declaration”). In my First Declaration, among other documents, I submitted printouts of JLI’s website, [www.juul.com](http://www.juul.com), as it existed on various dates relevant to the ecommerce transactions conducted by the named plaintiffs in this case. As I stated in that declaration, the website printouts I submitted were accurate as of the dates specified in my declaration based on my review of JLI’s internal business records.

3. I have reviewed the Direct Purchaser Plaintiffs' Opposition To Defendant Juul Labs, Inc.'s Motion to Compel Arbitration Or Alternatively Strike Class Allegations and declarations of Anthony Martinez, Mallory Flannery, and Jessica McGee. Plaintiff Anthony Martinez questions whether JLI's Website featured a "checkbox" next to the phrase "By registering with JUUL Labs, Inc., you agree to our Terms and Conditions and Privacy Policy" on

1 the date that he created his account, August 26, 2018. In support of my First Declaration, I  
2 reviewed historical records kept in the ordinary course of JLI's business regarding modifications  
3 to its website and confirmed that, as of the date Mr. Martinez created his account, the "checkbox"  
4 was a feature of the Sign Up page of JLI's website.

5 4. More specifically, JLI uses GitHub, an industry-standard tool for software  
6 development to maintain robust version control of its website's code. In order to make a change  
7 to the JLI website's code (and thus to the website), a JLI engineer has to submit what is known as  
8 a "Pull Request," which shows the proposed changes to the current html code in one column (on  
9 the left) and the proposed html code as it will be if the changes are accepted (on the right). Once  
10 approved, the proposed changes are made. Approved Pull Requests are stored by GitHub in order  
11 to create a record of changes to the html code.

12 5. At my direction, JLI engineers retrieved and printed the August 9, 2018 Pull  
13 Request that resulted in the addition of the checkbox feature to JLI's website, attached hereto as  
14 **Exhibit 13.** The Pull Request is titled "Anil/signup checkbox requirement #1353." Excerpts of  
15 the August 9 Pull Request show that, on August 9, 2018, JLI changed its website html code so that  
16 users accessing its website from the United States would have seen the checkbox described above.  
17 For example:



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18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 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1       6.     This is the code that implemented the change to JLI's website on August 9, 2018  
2 inserting the "checkbox" requirement. After August 9, 2018 – including on August 26, 2018  
3 when Plaintiff Martinez created his account – all users accessing JLI's website from the United  
4 States were required to check the box to acknowledge JLI's Terms and Conditions and Privacy  
5 Policy before they could sign up for an account on JLI's website.

6       7.     I also requested and reviewed excerpts of the version of the JLI website html code  
7 as it existed on the day Plaintiff Flannery accessed JLI's website, February 26, 2019. That version  
8 of the html source code shows that the checkbox requirement was active on the website on that  
9 date, as depicted in Exhibit 5 to my First Declaration. Attached hereto as **Exhibit 14** is an excerpt  
10 of the version of the html code for the checkbox requirement as it existed on February 26, 2019.

11       8.     I also requested and reviewed excerpts of the version of the JLI website html code  
12 as it existed on the day Plaintiff McGee accessed JLI's website, July 19, 2019. That version of the  
13 html code shows that the checkbox requirement was active on the website on that date, as depicted  
14 in Exhibit 6 to my First Declaration. Attached hereto as **Exhibit 15** is an excerpt of the version of  
15 the html code for the checkbox requirement as it existed on July 19, 2019.

16           I declare under penalty of perjury that the foregoing is true and correct.

17  
18           Executed at San Francisco, California on March 30, 2021.  
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21           Eadon Jacobs  
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